

## PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF ELECTION  
(PCT Rule 61.2)

Date of mailing (day/month/year)  
12 September 2000 (12.09.00)

To:

Assistant Commissioner for Patents  
United States Patent and Trademark  
Office  
Box PCT  
Washington, D.C.20231  
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

International application No. PCT/GB00/00102	Applicant's or agent's file reference Q037023PPC
International filing date (day/month/year) 17 January 2000 (17.01.00)	Priority date (day/month/year) 15 January 1999 (15.01.99)
Applicant KEOGH, Andrew, Joseph	

1. The designated Office is hereby notified of its election made:

in the demand filed with the International Preliminary Examining Authority on:

08 August 2000 (08.08.00)

in a notice effecting later election filed with the International Bureau on:

\_\_\_\_\_

2. The election  was

was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No.: (41-22) 740.14.35	Authorized officer Pascal Piriou  Telephone No.: (41-22) 338.83.38
---	---

## PATENT COOPERATION TREATY

PCT

REC'D 08 FEB 2001

W/ IPO PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference W037023PPC	<b>FOR FURTHER ACTION</b>		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/GB00/00102	International filing date (day/month/year) 17/01/2000	Priority date (day/month/year) 15/01/1999	
International Patent Classification (IPC) or national classification and IPC A23P1/14			
Applicant CADBURY SCHWEPPES PLC et al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand 08/08/2000	Date of completion of this report 06.02.2001
Name and mailing address of the international preliminary examining authority: European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Bendl, E Telephone No. +49 89 2399 8637



# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/GB00/00102

## I. Basis of the report

1. This report has been drawn on the basis of (substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments (Rules 70.16 and 70.17).);

**Description, pages:**

1-9 as originally filed

**Claims, No.:**

1-22 as originally filed

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: ., which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings sheets:

5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 702(c)).

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/GB00/00102

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes:	Claims 1,4,5,7,8,10,13,19-22
	No:	Claims 2,3,6,9,11,12,14,15,16,17,18
Inventive step (IS)	Yes:	Claims 1
	No:	Claims 2-22
Industrial applicability (IA)	Yes:	Claims 1-22
	No:	Claims

2. Citations and explanations  
**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:  
**see separate sheet**

**Chapt r V -----**

Reference is made to the following documents:

D1 = WO-A-9734503

D2 = US-A-4 839 193

**Novelty**

- 1.) A processes according to Claim 1 on file, wherein a soft expanded foodstuff is treated at two pressures and temperatures has not been described in the documents of the search report. In D1 it cannot be directly and unambiguously derived that an expanded product is treated at two different pressures.
  
- 2.) Claim 2 describes a process comprising the following steps:
  - (a) the soft product (may be in partially expanded condition) contains vaporisable expanding agent,
  - (b) is passed from temperature  $T_1$  and pressure  $P_1$  to
  - (c) a setting region with  $T_2 < T_1$  and  $P_2 < P_1$
  - (d) thereby the product is expanded or further expanded.
  
- 3.) Such a process has been described in D1 (Example 3 referring to Example 1). Into the soft, unexpanded product  $CO_2$  is injected before extrusion (step (a)) and the mass is extruded at 2760 kPa and 50-55°C (step (b)) to room temperature and atmospheric pressure (step (c)). Only then the expanded product is passed on to the drying step.
  
- 4.) Consequently the subject - matter of Claims 2,3,6,9,11,12,14,15,16,17, 18 is not novel.

**Inventive step**

No teaching has been given in D1 or D2 to apply the process to the soft expanded foodstuff. Thus, the subject - matter of Claim 1 is not considered to be derivable from these documents. However, since the dependent claims also refer to Claim 2 or another claim which is dependent on Claim 2, they formally do not meet the criteria for the inventive step.

**Chapter VIII -----**

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1, D2 are not mentioned in the description, nor are these documents identified therein.

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference <b>Q037023PPC</b>	<b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. <b>PCT/GB 00/00102</b>	International filing date (day/month/year) <b>17/01/2000</b>	(Earliest) Priority Date (day/month/year) <b>15/01/1999</b>
Applicant <b>CADBURY SCHWEPPES PLC et al.</b>		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 2 sheets.

It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

contained in the international application in written form.

filed together with the international application in computer readable form.

furnished subsequently to this Authority in written form.

furnished subsequently to this Authority in computer readable form.

the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2.  **Certain claims were found unsearchable** (See Box I).

3.  **Unity of Invention is lacking** (see Box II).

4. With regard to the **title**,

the text is approved as submitted by the applicant.

the text has been established by this Authority to read as follows:

**PROCESS FOR PRODUCING AN EXPANDED FOODSTUFF**

5. With regard to the **abstract**,

the text is approved as submitted by the applicant.

the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.

as suggested by the applicant.

because the applicant failed to suggest a figure.

because this figure better characterizes the invention.

None of the figures.

## INTERNATIONAL SEARCH REPORT

International Application No

PCT/GB 00/00102

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A23P1/14

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A23P

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category <sup>o</sup>	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 97 34503 A (CADBURY SCHWEPPES PLC ;SANDERS NIGEL (GB); ZUMBE ALBERT (GB)) 25 September 1997 (1997-09-25) example 3 ----	1-22
X	US 4 839 193 A (MANGE CHRISTIAN ET AL) 13 June 1989 (1989-06-13) column 5, line 13 -column 6, line 29 -----	1-22

 Further documents are listed in the continuation of box C. Patent family members are listed in annex.

## ° Special categories of cited documents :

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

Date of mailing of the international search report

19 May 2000

26/05/2000

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

Bend1, E

**INTERNATIONAL SEARCH REPORT**

Information on patent family members

International Application No

PCT/GB 00/00102

Patent document cited in search report	Publication date	Patent family member(s)		Publication date
WO 9734503	A 25-09-1997	AU 2033097	A	10-10-1997
		CA 2248956	A	25-09-1997
		EP 0907327	A	14-04-1999
		NZ 331859	A	29-03-1999
US 4839193	A 13-06-1989	FR 2600496	A	31-12-1987
		DE 3780219	A	13-08-1992
		DK 270487	A	28-11-1987
		EP 0247926	A	02-12-1987